



THIRD PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional)
		JRL-1410-762
	Application Number	Filed
	09/898,480	July 5, 2001
	First Named Inventor ANDREASON	
Art Unit 2618	Examiner Aminzay, Shaima Q.	

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

Applicant/Inventor

Assignee of record of the entire interest. See 37 C.F.R. § 3.71. Statement under 37 C.F.R. § 3.73(b) is enclosed. (Form PTO/SB/96)

Attorney or agent of record 33,149
(Reg. No.)

John R. Lastova

Typed or printed name

703-816-4025

Requester's telephone number

Attorney or agent acting under 37CFR 1.34.
Registration number if acting under 37 C.F.R. § 1,34 _____

June 13, 2008

Date

*Total of 1 form/s are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and selection option 2.



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

ANDREASON

Atty. Ref.: 1410-762; Confirmation No. 8452

Appl. No. 09/898,480

TC/A.U. 2618

Filed: July 5, 2001

Examiner: Aminzay, Shaima Q.

For: AN ARRANGEMENT AND A METHOD IN A TELEPHONY SYSTEM

* * * * *

June 13, 2008

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

THIRD PRE-APPEAL BRIEF REQUEST FOR REVIEW

A first pre-appeal was filed appealing the obviousness rejection of all claims based on Henon and Jensen. Prosecution was re-opened. Claims were rejected based on Henon alone or combined with Camp. A second pre-appeal was filed. In response, the Examiner issued another set of rejections: one based on Henon and Tada and another based on Henon and Beck. In a telephone interview conducted on June 11, 2008, the undersigned explained the significant differences between what is recited in the independent claims and what is described in Henon.

Henon Transfers the Call from the Mobile to the Wireline Phone. In Henon, it is assumed that a call with a mobile phone 100 is currently in progress. The wireline phone 110 is not involved in the call yet. The mobile phone 100 wants to transfer the call to the wireline phone 110 and asks for the telephone number of the wireline phone over a Bluetooth wireless link. See Figure 1. The wireline phone responds by sending its wireline telephone number. Thereafter, the mobile provides the wireline telephone number to the mobile network and asks that the call be set up with the wireline phone via the wireline network. As a result, the mobile

network transfers the call via the wireline network in the conventional way from the mobile phone to the wireline phone. The user answers the call on the wireline phone and then hangs up the call on the mobile. See again Figure 1. Henon's purpose in transferring the call from the mobile to the wireline phone is to conserve the mobile's battery by not having the mobile phone involved or used in the call once the transfer is complete.

In the rejected claims, by contrast, the call is not transferred from the mobile phone to the wireline phone. Instead, the call is made and conducted by the wireline phone through the mobile phone to the called device. In fact, if the battery runs out, the call is dropped. There is no traditional wireline connection from the wireline phone to the called device in the claimed arrangement or method. What is new and non-obvious is that both the wireline phone and the mobile phone are used to communicate speech during the call with the called device. The speech from the caller is received at the wireline phone is carried over a short distance, wireless speech channel to the mobile phone and the mobile phone sends that speech over a radio channel to the network which routes it to the called device. Hence, the claims are directed to a very different system than Henon's which employs different technical features than Henon uses.

Henon's Bluetooth Link Does Not Carry Speech. Claims 1, 7, and 21 require that speech be carried on a short range wireless link between a stationary telephony terminal and a mobile radio. Henon only uses the Bluetooth link (a short range wireless link) to query the wireline phone for its phone number. Speech is never sent over that Bluetooth link. Thereafter, the mobile's involvement in the call and any link between the mobile and the wireline phone are ended.

The Examiner rightly admits that a speech channel is not established in Henon between the wireline phone and the mobile phone over the Bluetooth wireless link. In Henon, the call content path is either with the stationary wireline phone or with the mobile phone, but not both.

When the call is transferred in Henon to the stationary wireline phone, the call to the mobile is ended.

Tada Does Not Remedy The Basic Deficiencies In Henon. Tada discloses a way to adaptively set the time interval between inquiry scans on a Bluetooth link to save battery capacity. Tada mentions (col. 7, line 61) that Bluetooth includes a synchronous speech channel. But there is no teaching of using that Bluetooth speech channel to carry speech between a wireline phone and a mobile phone, where that speech is also communicated between a called device and the mobile phone. In fact, Tada does not even describe any particular use of the Bluetooth speech channel. Nor is there any reason to include Tada's Bluetooth speech channel in Henon because Henon either communicates speech with the called device 108 with the mobile phone 110 **alone or** with the wireline phone 102 **alone.**

Other Clear Evidence of Non-obviousness. In addition to missing claim elements, further indicia are present that demonstrate non-obviousness. First, Henon *teaches away* from claims 1, 7, and 21. In column 1, lines 18-21, Henon teaches: "those who use cellular telephones often find themselves cut off or dropped in the middle of a wireless call for any number of reasons, such as battery loss, network connection problems, or the like." Claims 1, 7, and 21 suffer from this very problem that Henon explicitly wants to avoid. Using a mobile phone as a conduit for a call between a stationary wireline phone and the called device is the very type of thing Henon warns against.

Second, in the claimed approach, the stationary wireline phone lacks a wired connection to a fixed telephone network. Instead, the network connection is made via the mobile and a wireless channel. Henon's system would not work without such a wired connection. Indeed, the call cannot be transferred to the stationary wireline phone without a wired connection. Thus, a modification to Henon to make it more like what is claimed not only is inconsistent with

Henon's teachings, it renders Henon inoperable for its intended purpose—another clear indicia of non-obviousness. See, for example, *In re Fritch*, 972 F.2d 1260, 1265-1266 (Fed. Cir. 1992).

Beck Does Not Remedy The Deficiencies In Henon (or Tada). It is unclear why the Examiner does not include Tada in the rejection of claims 7, 9-16, 18, and 20 since claim 7 requires speech features similar to claim 1: “establishing a speech channel over the short range wireless communication link” and “communicating speech to and from the stationary telephony terminal over the mobile radio telephony network via the mobile radio telephone with another telephone including transmitting and receiving speech signals over the speech channel established over the short range wireless communication link.” Neither Henon nor Beck teaches these features, and the other clear evidence of non-obviousness outlined above also applies to the rejection of claim 7 based on Henon and Beck.

Regarding the discovery signal features missing from Henon, Beck teaches “discovering and sharing software services in a distributed computing environment.” Col. 3, lines 37-40. But software service discovery is not what is claimed. Instead, claim 7 recites: sending, **from the stationary telephony terminal**, discovery signals over the short range wireless communication link. This is not disclosed in Beck. Nor does Beck teach receiving in a stationary wireline telephone the response signal from the mobile. Finally, where does Beck teach “sending a mobile identification signal from the mobile radio telephone, and thereafter, generating a ring signal at the stationary telephony terminal to indicate an incoming call?” As previously pointed out, Henon's mobile sends a message requesting the wireline phone's telephone number. The wireline telephone replies with its wireline telephone number. Then the mobile sends the call transfer request to the network with that number. See 3:62-4:8. This is the opposite from the steps quoted from claim 7 above where it is the stationary wireline telephone—not the mobile—that sends the initial request message.

Tomas Andreason
Appl. No. 10/110,481
June 13, 2008

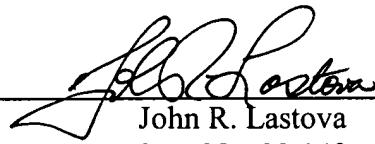
Other Missing Claim Features. Claim 20 recites “generating a ring signal at the mobile radio telephone to indicate the incoming call in addition to the ring signal generated at the stationary telephony terminal.” This feature is missing in Henon. The “ringing connection” referred to at col. 4, lines 11-12, is established “at the wired telephone 102” and is not “a ring signal at the mobile radio telephone.” Henon also lacks “a service code on the stationary telephony terminal indicating when the sent authentication code is valid” recited in Claim 13. None of the messages in col. 4, lines 1-18 is described or would be reasonably understood as the claimed service code validating a sent authentication code. Claim 15 recites “checking the authentication code in the mobile radio telephony network” rather than performing that checking at a “mobile radio telephony network telephone” as stated in the final rejection. Henon does not disclose the claimed network checking the authentication code.

The rejection should be withdrawn and the application allowed. An early notice to that effect is respectfully requested.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By:



John R. Lastova
Reg. No. 33,149

JRL:maa
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100